



2025:DHC:124-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 08.01.2025

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W.P.(C) 96/2025

EX CONST CREW SHER SINGH

.....Petitioner

Through: Mr.S.S. Pandey and Mr.Roshan
Kumar, Advs.

versus

UNION OF INDIA THROUGH & ORS.

.....Respondents

Through: Mr.Himanshu Pathak, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (Oral)

CM APPL. 378/2025 (Exemption)

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 96/2025 & CM APPL. 377/2025

1. This petition has been filed by the petitioner praying for the following reliefs:

“(a) Issue a Writ of Certiorari calling for the records including the Court of Inquiry which was finalized illegally and used against the Petitioner to pass Impugned Order dated 31.12.2019 vide which Petitioner was dismissed from service and the records based on which the Representation of the Petitioner dated 04.03.2020 was rejected vide Impugned Order dated 06.10.2020 was passed rejecting his representation against such order of termination and thereafter quash all such orders including the Court of Inquiry.

(b) Issue a Writ of Mandamus further, by directing the Respondents to permit the



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petitioner to the issuance of the Writ in the nature of Mandamus by directing the Respondents to permit the petitioner to rejoin services with all consequential benefits.”

2. The Impugned Order dated 31.12.2019 has been passed by the Deputy Inspector General Dhubri Sector Border Security Force, Panbari, Dhubri (Assam), striking off the petitioner from the strength of the Water Wing, BSF, Rajarhat with effect from 31.10.2019, *inter alia* observing as under:

“3. Under the provision of Rule-17 of BSF Rules-1969, No.161618676 CT/Crew Sher Singh of Water Wings BSF Dhubri was given an opportunity to show cause vide SHQ BSF DHUBRI Letter No.Estt./DBI/SCN/WW-DBR/2019/225 dated 29th Nov 2019 against his proposed termination from service. His reply to the show cause notice Vide letter No. Nil dated 13th Dec 2019 has been Sympathetically considered by the undersigned and I am not satisfied with the explanation offered by him and considered his further retention in the force is undesirable. I, therefore, direct that No. 161618676 Const (Crew) Sher Singh of Water Wing BSF Dhubri be terminated from the service under Rule 17 of BSF Rule -1969 with effect from 31st Dec 2019 (AN).”

3. The petitioner had submitted a representation dated 04.03.2020, which was also rejected by Headquarters, BSF, Guwahati, through the Impugned Order dated 06.10.2020.

4. The orders having been passed at Assam, we enquired from the petitioner as to how he invoked the jurisdiction of this Court for entertaining the present petition. In response, the learned counsel for



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the petitioner submitted that as the Impugned Order places reliance on the Court of Inquiry that was conducted at Delhi and which had found that neither the Swimming Experience Certificate was issued to the petitioner by the GYM Khana Club, Sector-4 , Rewari, Haryana, nor the Boat Handling Experience Certificate (ref. No 28 of 2014) was issued to him by MB Monomohini Dock Complex, Haidia Dock Complex, PO, Chiranjibpur, Dist. Midnapur, Haldia, basis whereof the petitioner had obtained appointment in the BSF, this Court would have the jurisdiction to entertain the present petition.

5. We do not find any merit in the submissions made. The petitioner for invoking the jurisdiction of this Court, in the writ petition has pleaded as under:

“16. That the petitioner have the cause of action to approach this Hon'ble Court because he not only the Inquiry was finalized in Delhi but even the received such decision to terminate him was issued from Delhi though the orders of dismissal was passed orders in Delhi but even the entire process of selection has been carried out in Delhi. Therefore, the petitioner have approached this Hon'ble Court by way of present Writ Petition.”

(Emphasis supplied)

6. Apart from the fact that the Impugned Order dismissing the petitioner from service has not been issued at Delhi, it is trite law that “cause of action” means a bundle of facts which is necessary for the petitioner to prove in order to succeed in the proceedings. It does not completely depend upon a character of the relief prayed for by the petitioner. A small part of the cause of action arising within the



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territorial jurisdiction of a High Court may not be considered as a determinative factor compelling the High Court to decide the matter on its own merits. In such a case, the doctrine of *forum non conveniens* shall apply.

7. In the present case, before passing the Impugned Order dated 31.12.2019, a Show Cause Notice had been issued to the petitioner at Assam, and the reply of the petitioner to the same is stated to have been considered before passing the Impugned Order at Assam. The petitioner is aggrieved by the Impugned Order dated 31.12.2019, which had terminated his service. The said order, as noted hereinabove, has been passed at Assam. Therefore, the major cause of action has arisen at Assam merely because the cause of inquiry was ordered at Delhi, it will not make this Court a *forum conveniens*.

8. Applying the principle of the doctrine of *forum non conveniens*, therefore, we are of the opinion that this Court would not be the appropriate/convenient Forum. Accordingly, we decline to entertain the present petition in exercise of the discretion vested in as under Article 226 of the Constitution of India.

9. The petition and the pending applications are dismissed while reserving the liberty of the petitioner to approach the jurisdictional High Court.

NAVIN CHAWLA, J

SHALINDER KAUR, J

JANUARY 8, 2025/sg/DG

[Click here to check corrigendum, if any](#)